



July 31, 2023

Robert M. Califf, MD
Commissioner
Food and Drug Administration
10903 New Hampshire Ave
Silver Spring, MD 20993

Dear Commissioner Califf,

We write in strong support of the proposed rule the Food and Drug Administration (FDA) announced in April 2022 to remove menthol as a characterizing flavor in cigarettes. By announcing this proposed rule, the FDA has taken an important step to reduce tobacco-related health disparities and advance health equity. We encourage the administration to finalize the rule and meet its August 2023 deadline.

President Biden and Vice President Harris's emphasis on racial equity as the responsibility of the entire federal government and not simply as a fixture of their administration is a viewpoint we share. Inequality along racial lines was all too evident in the coronavirus pandemic, which devastated racial and ethnic communities by taking their lives at a disproportionate rate, while leaving many in these communities at greater risk of infection due to health inequities associated with social determinants of health. At a time when we are working to address such inequities and protect the health of all Americans from a host of threats, we are pleased this administration has taken this critically important step to put an end to the tobacco industry's targeted efforts to lure youth and Black Americans into a lifetime of deadly addiction.

Menthol cigarettes disproportionately and negatively impact the health of the Black community across the lifespan. A 2020 study showed that while overall, approximately 43% of adult smokers used menthol cigarettes in the past month, over 80% of Black adult smokers used menthols.¹ This is the direct result of a deliberate decision made decades ago by the tobacco industry to target Black Americans with marketing for menthol cigarettes.² In the 1950s, fewer than 10% of Black smokers used menthol cigarettes; after decades of the tobacco industry's targeting of Black children and Black communities with pervasive marketing campaigns and price discounts, use of menthol cigarettes skyrocketed among Black Americans.³ In 2021, menthol cigarettes accounted

¹ <https://academic.oup.com/ntr/article-abstract/25/4/692/6754167>; <https://www.nytimes.com/2022/04/28/health/menthol-ban-fda.html>

² <https://www.cdc.gov/tobacco/health-equity/african-american/unfair-and-unjust.html>

for 37% of all cigarette sales — the highest proportion since major tobacco companies were required to report domestic market share of menthol and non-menthol cigarettes.⁴

Menthol cigarettes are a primary reason why tobacco use has long been the leading preventable cause of death for the Black community.⁵ Menthol flavoring masks the harsh taste of cigarette smoke, making it easy for youth to start smoking. Menthol cigarettes are also more addictive and harder to quit than regular cigarettes, resulting in greater damage to their health.⁶ The net result has contributed to the Black community suffering unfairly and disproportionately from tobacco-related diseases. Black Americans die from heart disease, lung cancer, strokes, and other tobacco-related diseases at rates far higher than other racial and ethnic groups.⁷

Concerns have been raised about a potential increase of policing in the Black community as an unintended consequence of the proposed menthol ban. We would like to reinforce the following statement: The FDA cannot and will not enforce against individual consumers for possession or use of menthol cigarettes or flavored cigars. If these proposed rules are finalized and implemented, FDA enforcement will only address manufacturers, distributors, wholesalers, importers and retailers who manufacture, distribute, or sell such products within the U.S. that are not in compliance with applicable requirements. These proposed regulations do not include a prohibition on individual consumer possession or use.⁸

While the FDA's proposed rule to ban menthol-flavored cigarettes is long-overdue, it is a significant step toward preventing a new generation from becoming tobacco users and saving lives. For too long, tobacco companies have been enabled to promote menthol cigarettes to the Black community, preying particularly on Black youth. We urge the FDA to continue to follow the science and move swiftly to implement the ban and remove these harmful products from the market without further delay.

Sincerely,

³ <https://www.tobaccofreekids.org/what-we-do/industry-watch/menthol-report#:~:text=In%20the%201950s%2C%20less%20than,priced%20cheaper%20in%20Black%20communities.>

⁴ <https://www.ftc.gov/news-events/news/press-releases/2023/01/ftc-releases-reports-cigarette-smokeless-tobacco-sales-marketing-expenditures-2021>

⁵ <https://www.tobaccofreekids.org/problem/health-disparities>

⁶ https://www.cdc.gov/tobacco/basic_information/menthol/public-health-problem.html

⁷ <https://www.thewellnesscoalition.org/tobacco-use-and-its-impact-on-african-american-communities/#:~:text=Tobacco%20and%20Death,disease%2C%20cancer%2C%20and%20stroke.>

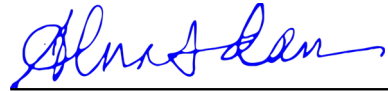
⁸ <https://www.fda.gov/media/158015/download>



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Member of Congress



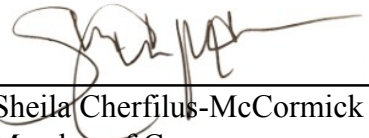
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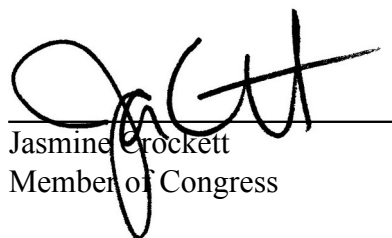
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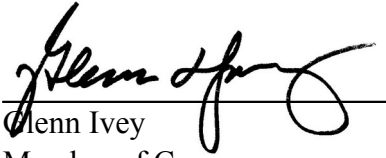
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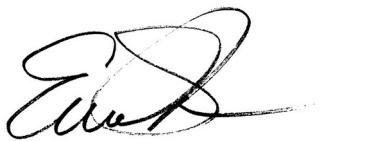
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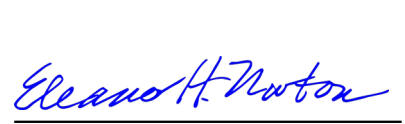
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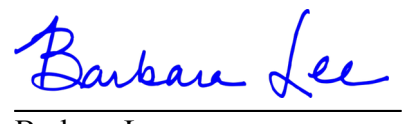
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